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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,836	07/24/2001	Hiroshi Tanaka	Q65448	4281

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 Pennsylvania Avenue, NW
Washington, DC 20037-3202

EXAMINER

BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
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2174

MAIL DATE	DELIVERY MODE
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05/02/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/910,836	TANAKA ET AL.	
	Examiner	Art Unit	
	Raymond J. Bayerl	2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 February 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 - 2, 5 - 10, 13 - 17, 19, 21 - 28, 30 - 38 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1 - 2, 5 - 10, 13 - 14, 17, 19, 21 - 28, 30 - 38 is/are allowed.
- 6) Claim(s) 15 - 16 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 July 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)

Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)

Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 15 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howards Koritzinsky et al. ("Howards Koritzinsky"; US# 6,598,011 B1) in view of Sitka et al. ("Sitka"; US# 6,349,373 B2).

As per independent claim 15's "program", Howards Koritzinsky discloses a medical image management system that includes medical diagnostic data acquisition equipment, as well as picture archiving communications and retrieval systems (see col. 5, lines 25-30). The claimed "receiving medical image data sets" with "storing the medical image data sets" reads upon the architecture and layout of Howards Koritzinsky's service system 10 which is illustrated for providing remote service to a medical diagnostic system 12. In Fig1, the medical diagnostic systems include a magnetic resonance imaging (MRI) system 14, a computed tomography (CT) system 16, and an ultrasound imaging system 18. The diagnostic systems may be positioned in a single location or facility, such as a medical facility 20 (see col. 4, lines 30-37), where system controllers such as unit 46 (computing systems capable of local storage, and thus reading upon "image data storing means") are collectively connected to personal computer 72, which then connects via a remote access network 80 to a remote service facility 22 (col 6, lines 5 - 48).

As per claim 15's "image data storage apparatus", Howards Koritzinsky teaches linkage to service facility 22 via the remote access network 80...Data may be exchanged between the diagnostic systems, field service units, and remote service

Art Unit: 2174

facility 22 in any suitable format (see col. 6, lines 34-41) and a local storage source at the diagnostic system, as well as from a remote library (see col. 4, lines 15-17). While this shows a connection per se to a "storage apparatus", it does not explicitly disclose that the actual "image data sets" are maintained at the remote location; the emphasis of Howards Koritzinsky is more upon the ability to provide service and support over the network.

However, Sitka's direct storage manager (DSM) 220, used for hospital film archival procedures, has a centralized location within archive server 160 that actually stores "image data sets" in the style of applicant's "image data storage apparatus". Furthermore, Sitka teaches controlling the management of the "image data" in one of a short term storage device 170, mid-term storage device 180 and long term storage device 190 (see col. 5, lines 6-8 and see Fig. 2) based on predetermined period of time (see blocks 340 and 360 in Fig. 3). This means that in Sitka, "storing the medical image data sets for a fixed period" takes place, with "fixed period" not referring to how the "period" is "fixed", but to any length of time, such as that of short tem storage device 170.

It would therefore have been obvious to a person having ordinary skill in the art at the time the invention was made to include Sitka's archival "storage apparatus" into the Howards Koritzinsky's arrangement of connected computing devices, at the acquisition, transmission and centralized sites. By so doing, Howards Koritzinsky's "image data sets" would be properly maintained in the form of storage that best meets the storage and access objectives of the medical image system. Howards Koritzinsky

has an improved ability to provide needed images and retain them as future needs might require, through retaining them “for a fixed period”. Such retention for a given length of time is an example of “managing a fixed storage period”, as in claim 16.

3. Applicant's arguments filed 8 February 2007 have been fully considered but they are not fully persuasive.

At pages 11 – 13, applicant argues that “Koritzinsky is a nonanalogous art and cannot be properly used as a basis for a section 103 rejection.”, since Koritzinsky is related to “servicing to address imaging problems, configure and calibrate the systems, and perform periodic system checks and software updates, is not pertinent to managing image data sets.” However, Sitka is cited to show the management of “image data sets” at remote storage, while Howards Koritzinsky is relied upon to show connectivity of storage units in a medical environment. Because Koritzinsky is working at an imaging facility the same as Sitka, analogy **does** exist, and thus the obviousness of controlling storage time of “image data sets” as per Sitka.

Specifically concerning Sitka, applicant argues at page 14 that “Although Sitka discloses ‘predetermined period of time, Applicant submits that Sitka does not teach or suggest that this predetermined time is set according to some sort of an accompanying information’. However, where accompanying information is used to control an expiration period, the Examiner now deems the claims to have overcome such art as Howards Koritzinsky. It is just applicant’s insistence on having claims as broad as claims 15, 16, where the image data is only stored for a “fixed period”, that continues to read upon Sitka, as noted above.

4. Claims 1 – 2, 5 – 10, 13 – 14, 17, 19, 21 – 28, 30 – 38 are allowable over the prior art of record.

The reasons for allowability for independent claims 6, 17 was given in the previous office action, concerning transfer upon certain threshold memory storage values.

Independent claims 1, 5, 14, 36, 37 now have the limitation that “accompanying information” is used to control the “expiration period”; the Examiner is in agreement with applicant that this is not seen in the Howards Koritzinsky / Sitka combination, where periods of time *per se* might be used for storage, but not ones for “expiration” that are specified in the data that accompanies an imagery transfer such as in Sitka.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

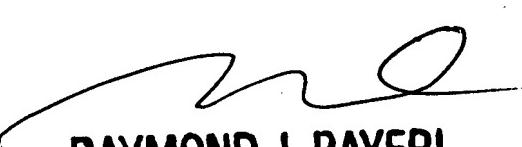
6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Raymond J. Bayerl, whose telephone number is (571)

Art Unit: 2174

272-4045. The Examiner can normally be reached on M – Th from 9:00 AM to 4:00 PM ET.

7. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kristine Kincaid, can be reached at 571-272-4063. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is (571) 272-2100.



RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2174

30 April 2007